

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

KATHRYN L. BARKER,
Plaintiff,

v.

UHS OF TEXOMA, INC.
d/b/a TEXOMA MEDICAL CENTER,
Defendant.

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Civil Action No. 4:18-cv-502

**DECLARATION OF CASEY SCOGGINS IN SUPPORT OF
DEFENDANT'S MOTION TO COMPEL ARBITRATION**

In accordance with 28 U.S.C. § 1746, I, Casey Scoggins, declare under penalty of perjury that the following is true and correct:

1. My name is Casey Scoggins. I have personal knowledge of the facts set forth in this *Declaration* based on personal knowledge and my review and knowledge of the business records and files of Defendant UHS of Texoma d/b/a Texoma Medical Center ("Texoma").

2. I am a custodian of records of Texoma and am familiar with the manner in which its records are created and maintained by virtue of my duties and responsibilities as its Learning Management System Administrator. Attached to this *Declaration* are 9 pages of records attached as Exhibits A to Exhibit F. These records are exact duplicates of the original records. The records were made at or near the time of each act, event, condition, opinion, or diagnosis set forth. The records were made by, or from information transmitted by, persons with knowledge of the matters set forth. The records were kept in the course of regularly conducted business activity. It is the regular practice of the business activity to make the records.

3. I am the Learning Management System Administrator for Texoma.

4. Texoma uses a software application called HealthStream for the administration, documentation, tracking, reporting, and delivery of educational courses, employment agreements, training programs, and professional development of its employees.

5. As part of its employment practices, Texoma assigns its employees unique accounts to access and complete learning modules within HealthStream. An employee's HealthStream account is password protected and only accessible to the particular employee.

6. One specific module that Texoma requires its employees to complete is a course titled "Alternative Resolution of Conflicts." The Alternative Resolution of Conflicts course in HealthStream contains several steps that an employee must complete in order generate a course "Certificate of Completion."

7. The first step is that the employee must review the *ARC Summary*. A true and correct copy of the *ARC Summary* provided to Plaintiff Kathryn L. Barker ("Plaintiff" or "Barker") is attached hereto as Exhibit A.

8. The second step is that the employee must review Texoma's *Alternative Resolution for Conflicts Agreement* ("ARC Agreement"). A true and correct copy of the *ARC Agreement* provided to Barker is attached hereto as Exhibit B.

9. The third step is that the employee must review the *ARC Acknowledgement Form*. A true and correct copy of the *ARC Acknowledgement Form* provided to Barker is attached hereto as Exhibit C.

10. As explained in the *ARC Summary*, *ARC Agreement*, and *ARC Acknowledgement*, an employee who does not agree to arbitration is permitted to opt out of the *ARC Agreement*'s binding arbitration provisions. See Exhibit A at 1; Exhibit B at 4; Exhibit C at 1.

11. After reviewing the *ARC Summary*, *ARC Agreement*, and *ARC Acknowledgement*, an employee then proceeds to the final step in the module on HealthStream, "ARC Attestation." A true and correct copy of the ARC Attestation step presented to Barker is attached hereto as Exhibit D.

12. In the ARC Attestation step, an employee must respond to the following statement: "I acknowledge this course contains the ARC Program materials, and I have had an opportunity to review them." The employee must then choose one of two mutually exclusive responses: (1) "I acknowledge this course contains the ARC Program materials, and I have had an opportunity to review them."; or (2) "I acknowledge this course contains the ARC Program materials, but have difficulty understanding or accessing the information."

13. If the first option is selected, HealthStream will then generate a *Certificate of Completion* indicating that the employee has completed the Alternative Resolution of Conflicts module.

14. If the second option is selected, HealthStream will not generate a *Certificate of Completion*. Rather, follow up action will be undertaken by a Texoma employee to ensure that the employee completing the Alternative Resolution of Conflicts module understands the ARC Program materials.

15. During the follow up, if an employee elects to opt out of the *ARC Agreement*, HealthStream records the employee's choice.

16. As Texoma's Learning Management System Administrator, I have administrative privileges within HealthStream. These administrative privileges allow me to review and retrieve individual employees course details within HealthStream, both for current and former employees.

17. In connection with this lawsuit, I have retrieved and reviewed Barker's course details for Texoma's "Alternative Resolution of Conflicts" course within HealthStream. A true and correct copy of Barker's course completion history is attached hereto as Exhibit E.

18. To produce the report of Barker's course completion history, I used her demographic information within the administrative features of HealthStream. Because HealthStream does not print out Barker's name on the course completion history, I manually printed Barker's name on the report and placed my signature to verify that the document reflects her course completion history.

19. As indicated on her course details for the "Alternative Resolution of Conflicts" module, Barker reviewed the *ARC Summary*, *ARC Agreement*, and *ARC Acknowledgement*. Barker then completed the ARC Attestation step with a score of 100%.

20. Because she scored 100% on the ARC Attestation step, Barker necessarily agreed to the following statement: "I acknowledge this course contains the ARC Program materials, and I have had an opportunity to review them." HealthStream then generated a *Certificate of Completion* for Barker. A true and correct copy of Barker's *Certificate of Completion* is attached hereto as Exhibit F.

21. As reflected in Barker's course completion history for the Alternative Resolution of Conflicts course, Barker did not opt out of arbitration. See Exhibit E. If Barker opted out of the *ARC Agreement*, this choice would have been reflected in HealthStream. Instead, Barker's course completion history for the Alternative Resolution of Conflicts course lists "OPTIONAL- Opt Out Form" and notes that it is "Not Yet Started." In addition, if Barker had opted out of arbitration, she would not have received a *Certificate of Completion* for the Alternative Resolution of Conflicts course.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
Declaration is true and correct.

Executed this the 7th day of May, 2019.


Casey Scoggins